

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

UNITED STATES OF AMERICA,

Case No. 11-cr-234-pp

Plaintiff,

v.

MICHELLE LAVIGNE,

Defendant.

**ORDER DENYING WITHOUT PREJUDICE DEFENDANT'S MOTION FOR
EARLY TERMINATION OF SUPERVISED RELEASE (DKT. NO. 418)**

On July 12, 2012, Judge Charles N. Clevert, Jr. sentenced the defendant to a term of sixty months on Count Four of the superseding indictment (possession with intent to distribute 100 grams or more of heroin), followed by a four-year term of supervised release. Dkt. No. 206. The defendant recently filed a motion for early termination of supervised release. Dkt. No. 418. In support of her motion, the defendant states that she has completed all courses ordered by the court, maintained stable employment, received her GED, and completed a drug rehabilitation program. Id.

The probation office filed a response, as requested by the court. Dkt. No. 420. The defendant's probation officer states that the defendant was released to supervision on March 27, 2015, and that her supervised release term will expire on March 26, 2019. While acknowledging that the defendant has made good progress, the probation officer indicates that the defendant's relationships

continue to be a cause of some concern. The underlying offense arose from her relationship with co-defendant Clement Evans, and their drug use. On release from prison, the defendant resided with her significant other, LaShun McGee, who was arrested on July 30, 2015, and convicted of possession with intent to deliver cocaine. Although she has ended that relationship, the defendant struggles with boundaries in other personal relationships, and her willingness to help others can have negative consequences. In addition, the defendant has had several low-level violations, including three missed urine screens and a citation for operating without a valid license (while trying to help a friend who was stranded). Probation further notes that the defendant has a lengthy criminal record dating back to 1990, and that she has been revoked on nearly all previous terms of supervision. Nevertheless, probation takes no position on the early termination request.

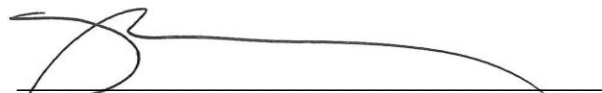
For many of the same reasons, the government opposes termination of supervised release until the defendant has completed three years of supervised release, which will be in March of 2018. Dkt. No. 421. The government points out, as did probation, that courts grant early termination of release in exceptional circumstances, not simply because a defendant follows the conditions of supervised release. Even where a defendant has done well on supervised release—as the government acknowledges that the defendant has done—courts look for new and unforeseen circumstances, or exceptionally good behavior, or situations in which supervision hinders a defendant’s rehabilitation. Id. at 421.

The court commends the defendant for the strides she has made while on release—she has been working, she has completed a cognitive behavioral program and mental health assessment, and she has been reporting to her probation officer. But as probation and the government point out, 18 U.S.C. §3583(e)(1) provides for early termination after one year has elapsed *if* the court is satisfied that the action is warranted by the conduct of the defendant and in the interest of justice. 18 U.S.C. §3583(e)(1). The defendant has made progress in some areas, but she has served only a little over two years of her supervised release term, and has had a couple of bumps in the road during that time. The court encourages the defendant to continue to show that she can manage her addiction and follow the rules of supervised release. If she does so, the court will be willing to consider another motion for early termination after the defendant has served at least three years of her supervised release term.

The court **DENIES WITHOUT PREJUDICE** the defendant's motion for early termination of supervised release. Dkt. No. 418.

Dated in Milwaukee, Wisconsin this 28th day of June, 2017.

BY THE COURT:

A handwritten signature in black ink, appearing to be 'P. Pepper', written over a horizontal line.

HON. PAMELA PEPPER
United States District Judge